BORA LASKIN LAW LIBRARY
31761 10077652 5

UNIVERSITY OF TORONTO
FACULTY OF LAW

Constitutional Law "C"
Professor L. Weinrib

Faculty of Law, University of Toronto
2016-17

Volume II

STORAGE
K
4218.5
.W45
2016
v.2
c.1

BORA LASKIN LAW LIBRARY

AUG 2 9 2016

FACULTY OF LAW
UNIVERSITY OF TORONTO

UNIVERSITY OF TORONTO
FACULTY OF LAW

Constitutional Law "C"
Professor L. Weinrib

Faculty of Law, University of Toronto
2016-17

Volume II

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/constitutionalla02wein_5

CANADIAN CONSTITUTIONAL LAW: THE CHARTER
L WEINRIB VOL II

CHAPTER 8: DEMOCRATIC RIGHTS (CHARTER S.3-5)
Reference Re Provincial Electoral Boundaries (Sask.) [1991] 2 S.C.R. 158.....1
Sauvé v. Canada (Chief Electoral Officer), [1993] 2 S.C.R. 438.....7
Notes: *Figueroa v. Canada*, [2003] 1 S.C.R. 912.....33

CHAPTER 9: FREEDOM OF CONSCIENCE AND RELIGION (CHARTER S.2(A))
A. Introduction
Case extracts:
R. v. Big M Drug Mart, [1985] 1 S.C.R. 295.....40
Syndicat Northcrest v. Amselem, [2004] 2 S.C.R. 551.....41
Note: Freedom of Conscience.....42

B. The Demise of the Informal Christian Establishment
i. Public Policy
L Weinrib, "'Do Justice to Us!' Jews and the Constitution of Canada.....44
R. v. Big M Drug Mart, [1985] 1 S.C.R. 295.....50
Note: *Edwards Books*, [1986] 2 S.C.R. 713.....57
L Weinrib, "Ensuring Equality".....59

ii. Education: Religious/Moral Diversity
Zylberberg v. Sudbury Board of Education (1988) 52 D.L.R. 577 (Ont.C.A.).....61
C.C.L.A. v. Minister of Education (1990).....63
Notes:
Ross v. New Brunswick School District No. 15, [1996] 1 S.C.R. 825.....66
Trinity Western Univ v. B. C. College of Teachers (2001) S.C.R. 31.....66
Chamberlain v. Surrey School District No. 36 [2002] S.C.J. No. 87.....67
Kempling v. B. College of Teachers (2005) 255 D.L.R. (4th) 169.....68
Multani v. Commission scolaire Marguerite-Bourgeoys [2006] 1 S.C.R. 256.....70
S.L. v Commission scolaire des Chênes [2012] S.C.J. No. 7.....75
Mouvement laïque québécois v Saguenay (City), 2015 SCC 16.....81
Loyola High School v Québec (Attorney General), 2015 SCC 12.....84
NOTE: Charter in Administrative Law Cases: *Doré v. Barreau Du Quebec*, [2012] 1 S.C.R. 395.....86

iii. The Bifurcated Public School System: Arrangements for Diversity at Confederation
Notes: *Reference Re Bill 30*, [1987] 1 S.C.R. 1148.....90
L. Weinrib, "Funding for Faith-based Schools?", Law Times July, 2007.....92
Note: *Hall (Litigation guardian of) v. Powers*, (2002).....93

C. Minority Religious Practices
B. (R.) v. Childrens's Aid Society, [1995] 1 S.C.R. 315 (sub nom. Sheena B., Re).....94
Alberta v. Hutterian Brethren of Wilson Colony [2009] S.C.J. No. 37.....98
Syndicat Northcrest v. Amselem, [2004] 2 S.C.R. 551.....123
Reference re: Section 293 of the Criminal Code of Canada ("the *Polygamy Reference*") 2011 BCSC 1588.....127

CHAPTER 10: FREEDOM OF EXPRESSION (CHARTER S.2(B))
A. Introduction
R. v. Keegstra, [1990] 3 S.C.R. 697.....147
Notes:
The European Convention on Human Rights (1950), extract.....151
International Covenant on Civil and Political Rights (1966), extract.....152
Irwin Toy Ltd. v. Quebec (Attorney General), [1989] 1 S.C.R. 927.....153

B. Political Expression
Native Women's Assn. of Canada v. Canada, [1994] 3 S.C.R. 627 155
Thomson Newspapers Co. v. Canada (Attorney General), [1998] 1 S.C.R. 877 159
Harper v. Canada, [2004] 1 S.C.R. 827, 2004 SCC 33 170
Note: *Ontario (Attorney General) v. Dieleman*, 1994 A.C.W.S.J. LEXIS 76253; 1994 A.C.W.S.J. 404796; 49 A.C.W.S. (3d) 1059 177
R.W.D.S.U., Local 558 v. Pepsi-Cola, 2002 Can. Sup. Ct. LEXIS 9; 2002 SCC 8 180

C. Commercial Speech
Irwin Toy Ltd. v. Quebec (Attorney General), [1989] 1 S.C.R. 927 184
RJR - MacDonald Inc. v. Canada (Attorney General), [1995] 3 S.C.R. 199 193
Canada (Attorney General) v. JTI-Macdonald Corp, [2007], 2 S.C.R. 610 208
Ramsden v. Peterborough (City), 16 C.R.R. (2d) 240; 1993 C.R.R. LEXIS 90 218
R. v. Guignard, 2002 Can. Sup. Ct. LEXIS 17; 2002 SCC 14 222

D. Hate Speech
R. v. Keegstra, [1990] 3 S.C.R. 697 225
Sask (Human Rights Commission) v Whatcott, [2013] 1 SCR 467 246
Note on: *R. v. Zundel*, [1992] 2 S.C.R. 731 250

E. Obscenity and Pornography
R. v. Butler, [1992] 1 S.C.R. 452 252
Little Sisters Book and Art Emporium v. Canada (Minister of Justice), [2000] 2 S.C.R. 1120 256
R. v. Sharpe, [2001] 1 S.C.R. 45, 2001 SCC 2 260
Note: The Charter Reconstructs the Indecency Standard – *R v Labaye* ([2005] 3 SCR 728, 2005 SCC 80) and *R v Kouri* ([2005] 3 SCR 789, 2005 SCC 81) 265

F. Defamation
Hill v. Church of Scientology Toronto, [1995] 2 S.C.R. 1130 266

CHAPTER 11: RIGHT TO LIFE, LIBERTY, AND SECURITY OF THE PERSON (s. 7)
A. Introduction and Methodology

Philip W. Augustine, "Protection of the Right to Property" 275
Singh v. Canada (Minister Of Employment And Immigration), [1985] 1 S.C.R.77 278
Re B.C. Motor Vehicle Act (Motor Vehicle Act Reference), [1985] 2 S.C.R. 486 281

B. Life, Liberty, and Security of the Person
R. v. Morgentaler, [1988] 1 S.C.R. 30 287
Rodriguez v. B.C.A.G., [1993] 3 S.C.R. 519 301
B. (R.) v. Children's Aid Society, [1995] 1 S.C.R. 315 (sub nom. Sheena B., Re) 309
New Brunswick B v. G(J.), [1999] 3 S.C.R. 46 315
Reference re ss. 193 and 195.1(1)(c) of the Criminal Code ("the *Prostitution Reference*"), [1990] 1 S.C.R. 1123 322
Note: *Godbout v. Longueuil*, [1997] 3 S.C.R. 844 325
Canada (A.G.) v. PHS Community Services Society, [2011] 3 S.C.R. 134 327
Canada (A.G.) v Bedford, [2013] SCR 1101 337
Carter v Canada (A.G.), [2015] 1 S.C.R. 467 350

C. Socio-Economic Rights
Gosselin v. Quebec (Attorney General), [2002] 4 S.C.R. 429, 2002 SCC 84 369